

**STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD**

IN RE:

**REGULATION OF MUNICIPAL
ELECTRIC UTILITIES AND
ELECTRIC COOPERATIVES**

DOCKET NO. RMU-2020-0027

The Iowa Environmental Council (IEC) and Environmental Law and Policy Center (ELPC) provide the following comments to the Iowa Utilities Board (Board) in response to the Order Setting Dates for Additional Comments and Taking Official Notice of Comments in Docket No. RMU-2019-0020. We are concerned that the proposed changes will disproportionately harm customers of color, yielding inequitable outcomes, and the rules do not provide required protection for renewable energy. We further encourage the Board not to adopt changes proposed by the Iowa Association of Municipal Utilities and Iowa Association of Electric Cooperatives that would further erode customer rights.

The Iowa Environmental Council (IEC) is a non-profit corporation organized under Iowa law. The IEC is a broad-based environmental policy organization with a mission to create a safe, healthy environment and sustainable future for Iowa. IEC works to create a just future for all people, regardless of race. The IEC represents a broad coalition of Iowans including over 70 diverse member and cooperator organizations and businesses ranging from agricultural, conservation, and public health organizations, to educational institutions, businesses and business associations, and churches, along with hundreds of individual members. IEC's work focuses on clean water, clean air, conservation, and clean energy, including the promotion of policies that would facilitate the development of clean energy and clean energy jobs.

The Environmental Law & Policy Center (ELPC) is a non-profit corporation organized under Illinois law. ELPC has members who reside in the State of Iowa and an office in Des Moines. ELPC's goals include promoting energy efficiency and renewable energy and advocating for policies and practices that facilitate the use, development, and implementation of effective energy efficiency and renewable energy. ELPC has invested significant time and resources into promoting energy efficiency and renewable energy in Iowa and nine other states in the Midwest.

The National Association for the Advancement of Colored People (NAACP) is the country's largest and oldest civil rights organization. Founded in 1909, it is a non-profit organization chartered by the State of New York. The mission of the NAACP is to ensure the political, social, and economic equality of rights of all persons, and to eliminate racial hatred and racial discrimination. Environmental injustice, including the proliferation of climate change, has a disproportionate impact on communities of color and low-income communities in the United States and around the world. The NAACP Environmental and Climate Justice Program was created to support community leadership in addressing this human and civil rights issue; and it works to address and rectify the many practices that are harming communities nationwide and worldwide. Continued, affordable access to sustainable energy is an issue in which the NAACP is keenly interested.

I. Proposed changes to disconnection policies and elimination of budget billing reduce consumer protections and will lead to greater inequality.

The Board began the rule making for Chapter 27 to clearly delineate the scope of its jurisdiction and provide clear guidance to municipal utilities and electric cooperatives. The Board could modify the proposed rules to minimize potential disconnections while maintaining protections for customers.

A. *Post-disconnection payment plans benefit all customers and utilities.*

The existing rules at Chapter 20.4(11) and the proposed rules at Chapter 27.4(4) require utilities to offer a payment agreement before disconnecting a customer. The proposed rules clarify that this payment agreement must be offered prior to disconnection, which provides helpful clarity on the timing of the payment agreement timing, and we support this addition. However, the proposed rules would also specify that a utility does not have to offer a payment agreement to a customer who has already been disconnected. This change would not benefit utilities or customers, and we recommend deleting the line that reads “The utility is not required to offer a customer who has been disconnected from service a payment agreement consistent with these rules, unless the utility did not comply with these rules prior to disconnection.”

The policies and protections of this proposed rule represent stop-gap measures to lessen harms on utility customer wellbeing. “In advancing energy justice, all individuals have the right to: safe, sustainable energy production; resilient and updated energy infrastructure; affordable energy; and uninterrupted energy service.”¹ See NAACP, *Lights Out in the Cold: Reforming Utility Shut-Off Policies as if Human Rights Matter*, at 28, available at https://naacp.org/wp-content/uploads/2020/07/Lights-Out-in-the-Cold_NAACP-ECJP-4.pdf. NAACP Foundational Energy Service Principle 13 expressly provides that utilities should “allow partial payment plans to customers to prevent disconnection,” *id.* at iv and 29. Therefore, the NAACP believes the proposed rule requiring that a payment plan be offered prior to disconnection provides important protection.

¹ Hernández, Diana. "Sacrifice along the energy continuum: a call for energy justice." *Environmental Justice* 8, no. 4 (2015): 151- 156.

For the reasons set forth above, the NAACP disagrees with the rule that a utility does not have to offer a payment agreement to a customer who has already been disconnected: “These customers [should be] given a chance to pay the amount due in portions rather than all at once, which allows a customer to expedite reconnection to the utility service.” *Light Out in the Cold*, at 17. Customers who have not paid utility bills may not have immediately available money to pay a past due bill in full – along with late fees and reconnection fees that increase the total cost beyond the amount they originally owe. Allowing utilities to refuse to offer a payment plan to these customers would only decrease the universe of customers who could repay their bills. For a customer who lost a job or was furloughed, could not pay bills, had service disconnected, and then regained employment, the lack of payment plan would present a significant barrier to repayment. This scenario is likely to be increasingly common as a result of the recent loss of employment and gradual recovery of jobs due to the COVID-19 pandemic. Schwartz, Nelson and Gillian Friedman, “Job Growth Slowed in July, Signaling a Loss of Economic Momentum,” THE NEW YORK TIMES, Aug. 7, 2020, available at <https://www.nytimes.com/2020/08/07/business/economy/july-jobs-report.html>. The scenario is also likely to disproportionately affect customers who are people of color: African-Americans and Latinx workers have higher unemployment rates than others.² *Id.*; see also, *Lights Out in the Cold* at 9.

When a customer cannot repay past bills, the utilities ultimately write off the losses and recover the revenue from all customers later. Rates for those customers will increase to make the utility whole. If the customers with past due bills including those already disconnected were able

² In addition, Black workers are disproportionately affected by the reduction in unemployment benefits at the end of July, which could affect payments in the short term. Badger, Emily et al., “Why Black Workers Will Hurt the Most if Congress Doesn’t Extend Jobless Benefits,” THE NEW YORK TIMES, Aug. 7, 2020, available at <https://www.nytimes.com/2020/08/07/upshot/unemployment-benefits-racial-disparity.html?searchResultPosition=3>.

to repay through a plan, the customer could regain good standing, the utility would recover revenue faster, and customers generally would see lower rates. In contrast, the end result of the proposed change to allow utilities to forgo a payment plan option for customers already disconnected is more customers, and in particular more customers of color, unable to make repayments and reconnect, and higher rates for all customers.

B. Budget billing should be included in Chapter 27.

Existing rules in Chapter 20 require utilities to offer budget billing plans to customers using less than 3000 kWh per month. 199 IAC 20.4(12)(e). As stated in the rule, this is intended to reduce the volatility of bills. *Id.* The proposed rules retain the option to offer a budget billing plan for customers who are behind on their bills. *See* proposed 199 IAC 27.4(4)(c)(2)(3). Despite this implicit acknowledgement of the value of budget billing for ensuring payment, the proposed rules eliminate the requirement for a budget billing plan for other customers. Eliminating budget billing could have disproportionate impacts on individuals with fixed income or lower income, who could not afford high bills in summer and winter. This could ultimately result in disconnections. NAACP Foundational Energy Service Principle 12 provides that utilities shall “allow budget payment plans to distribute utility costs throughout the year.” *Lights Out in the Cold*, Pages iv, 28. Budget billing should be available to all and not restricted to those who have been disconnected. As discussed above, once disconnected, municipal utilities and electric cooperatives would not have to offer repayment plans – ensuring that the customers would have a more difficult time repaying their past-due bills. To reduce disconnections and potential disparate impacts, the proposed rules should include the budget billing provisions contained in Chapter 20.

II. The rules should reflect that discrimination against customers with renewable energy is prohibited for electric cooperatives.

The proposed rules at 27.4(2)(d) describes the content of a bill insert or notice required to be provided to customers at least annually. The notices advise customers to file complaints with the Board for topics that are within the Board’s jurisdiction. For rural electric cooperatives, this must contain the statement: “If your complaint is related to the (utility name) service rather than its rates, and (utility name) does not resolve your complaint, you may request assistance from the Iowa Utilities Board....”

Although the IUB does not regulate rates of electric cooperatives generally, the Iowa Code section 476.21 prohibits discrimination in rates based on a customer’s use of renewable energy. The law expressly applies to cooperative associations. Iowa Code § 476.1A(2). As a result, this should be included in the list of complaint topics in the rule.

III. The Board should not adopt changes proposed by municipal utilities and electric cooperatives that erode customer rights.

The municipal utilities and electric cooperatives provided proposed rule language reflecting changes to the rule structure and content they prefer. (“Joint Comments,” Iowa Association of Electric Cooperatives and Iowa Association of Municipal Utilities, Exh. A (filed July 10, 2020.)) These changes include elimination of significant protections for customers and an important clarification for electric vehicles that the Board recently adopted. We oppose these changes.

The alternative proposal would eliminate a provision allowing complete forgiveness of one late payment charge each year. *See* proposed 199 IAC 27.4(5)(d). Like the ability to enter into budget billing, forgiveness of a late payment charge would likely reduce the burden – and

decrease the rate of disconnection – for customers with fixed or low incomes. Losing this benefit would harm customers without providing substantial benefits to the utilities.

The alternative proposal would eliminate requirements regarding responses to customer complaints. Because the Board continues to have jurisdiction over aspects of municipal utilities and electric cooperatives, and can receive complaints about aspects of their services, it is unreasonable to eliminate this provision.

Finally, the alternative proposal excludes the recently-adopted provision of rule 20.20 regarding electric vehicle charging. The rule provided important clarification for customers interested in accelerating the transition to clean energy by providing renewable energy for electric vehicles. Excluding it from Chapter 27 could create inconsistency and confusion across different service areas.

Conclusion

The proposed chapter of rules eliminates some and fails to include other important customer protections. We recommend making changes to reduce disconnections, allow repayment of past due bills after disconnection, ensure customers with renewable energy do not face discrimination, and protect customer rights that are within the scope of the law. Many of these changes would provide more equitable treatment for customers who are people of color.

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